

Appeal from decision of the California State Office, Bureau of Land Management, rejecting noncompetitive oil and gas lease offer CA 10313.

Affirmed.

1. Oil and Gas Leases: Discretion to Lease--Oil and Gas Leases: Lands Subject to

The Secretary of the Interior may, in his discretion, reject an offer to lease public lands for oil and gas deposits upon a proper determination that the leasing would not be in the public interest, even though the land applied for is not withdrawn under the Mineral Leasing Act. BLM properly rejects an oil and gas lease offer as to (1) lands within an Indian reservation, (2) lands where the oil and gas rights are not in Federal ownership, and (3) lands subject to a pending transfer to the State of Arizona.

APPEARANCES: Joe Lyon, Jr., pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Joe Lyon, Jr., has appealed the decision of the California State Office, Bureau of Land Management (BLM), dated November 9, 1981, rejecting noncompetitive oil and gas lease offer CA 10313.

Appellant's over-the-counter lease offer, submitted on June 19, 1981, covered the following lands:

T. 16 S., R. 23 E., San Bernardino Meridian  
Sec. 2, Lots 14 through 17;  
Sec. 3, Lots 1A, 1B, 8, 13, 14;  
Sec. 4, SW 1/4.

T. 8 S., R. 22 W., Gila and Salt River Meridian  
Sec. 6, All;  
Sec. 7, Lots 6 through 10, NE 1/4 NW 1/4.

T. 8 S., R. 23 W., Gila and Salt River Meridian  
 Sec. 1, Lots 6 through 10, S 1/2 N 1/2, S 1/2;  
 Sec. 2, Lots 6 through 10;  
 Sec. 11, Lots 5 through 8;  
 Sec. 12, Lots 2, 3, 4, SE 1/4 SW 1/4, N 1/2 S 1/2, N 1/2.

BLM rejected the lands in secs. 2 and 3, T. 16 S., R. 23 E., San Bernardino meridian because they are within the Fort Yuma Indian Reservation and, consequently, are not available for oil and gas leasing. BLM states that the lands in sec. 4 of the same township passed from Federal ownership by quitclaim deed on March 11, 1949. BLM held the remaining lands in appellant's offer unavailable for leasing because they are in the process of being granted to the State of Arizona.

In his statement of reasons, appellant concedes that the lands in secs. 2 and 3, T. 16 S., R. 23 E., San Bernardino meridian, are within the Indian reservation and not available for leasing. He argues that although the land in the SW 1/4 of sec. 4, T. 16 S., R. 23 E., San Bernardino meridian, was quitclaimed as BLM stated, he believes the BLM status plat to show that all minerals were reserved in the United States and, therefore, the land should be open to oil and gas leasing. As to the lands in T. 8 S., R. 22 W., and T. 8 S., R. 23 W., Gila and Salt River meridian, he notes that the plat places the lands in the State of California and suggests that it is unusual to be transferring lands from the State of California to the State of Arizona.

[1] The Secretary of the Interior, through his duly authorized representative, BLM, has the authority to refuse to lease lands for oil and gas purposes, even if the lands have not been withdrawn from the operation of the general mining and mineral leasing laws. Udall v. Tallman, 380 U.S. 1, 4 (1965), rehearing denied, 380 U.S. 989 (1965); Frances H. Rodke, 53 IBLA 98 (1981); Robert P. Kunkel, 41 IBLA 77 (1979). The Board has held that BLM may refuse to issue a lease, provided that it sets forth its reasons for doing so, and provided that the background data and facts of record support the conclusion that the refusal is required in the public interest. Placid Oil Co., 44 IBLA 209 (1979); Robert P. Kunkel, supra at 78; Cartridge Syndicate, 25 IBLA 57, 59 (1976).

As appellant has recognized, the lands within the Fort Yuma Indian Reservation are not available for leasing. It has long been the position of this Department that land held in trust for Indians is not subject to leasing under the Act. Thomas D. Chace, 31 IBLA 13 (1977); 43 CFR 3101.1-1(b).

BLM has submitted for the record a copy of the March 11, 1949, quitclaim deed which transfers ownership of the lands in the SW 1/4, sec. 4, T. 16 S., R. 23 E., San Bernardino meridian, from Federal to private ownership. The deed contains a reservation for certain types of rights-of-way and the following:

There is reserved unto the party of the first part, pursuant to the provisions of Executive Order No. 9908, approved December 5, 1947 (12 Fed. Reg. 8223):

All uranium, thorium, and all other materials determined pursuant to section 5 (b) (1) of the Atomic Energy Act of 1946 (60 Stat. 761) to be peculiarly essential to the production of fissionable material, contained, in whatever concentration, in deposits in the lands covered by this instrument are hereby reserved for the use of the United States, together with the right of the United States through its authorized agents or representatives at any time to enter upon the land and prospect for, mine, and remove the same, making just compensation for any damage or injury occasioned thereby. 1/

Oil and gas was not reserved to the United States during this transaction.

Finally, BLM reports that the Arizona State Office is presently preparing to convey certain lands including those in T. 8 S., R. 22 and 23 W., Gila and Salt River meridian, at issue in this appeal, to the State of Arizona. We find that the pendency of the conveyance to the State of Arizona is sufficient reason to justify denial of appellant's oil and gas lease offer as to the lands to be conveyed.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision of the California State Office is affirmed.

---

Douglas E. Henriques  
Administrative Judge

We concur:

---

Gail M. Frazier  
Administrative Judge

---

Bernard V. Parrette  
Chief Administrative Judge

---

1/ This reservation was released by 42 U.S.C. § 2098 (1976).

